

**DECLARATION OF ANDREW KINGSTON**

I, Andrew Kingston, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the following is true and correct, that I am over 18 years of age, that I am a resident of Ontario, Canada, that I have personal knowledge of the matters set forth below, and that I could and would competently testify to the matters stated herein:

1. I am a portfolio manager for GMG Private Counsel, ULC (“GMG”). I have held this position since 2015. GMG primarily manages investments for high net worth individuals and provides its clients with a suite of investment management services. GMG is licensed in both the United States and Canada. At GMG, I manage, among other things, the Gavin Special Opportunity Fund (“Gavin Fund”). It is a fund of funds. In my role, I, among other things, identify third-party investment managers to assist in providing more active and specialized investment management than GMG could provide.

2. Around mid-2019, while searching for third-party investment managers, Shawn Shewchuk (“Shewchuk”), a fellow portfolio manager at GMG, and I came across Naufal Sanaullah (“Sanaullah”). Sanaullah was active in the investment industry and had a presence on social media. I was impressed by him because he wrote thoughtful articles on investing and appeared in interviews on Bloomberg, Real Vision and on several podcasts we followed. Shewchuk and I followed Sanaullah for over a year before deciding to contact him.

3. On January 24, 2020, Shewchuk and I first reached out to Sanaullah by email to set up a phone call with him. I was cc’d on the email thread. Sanaullah responded with some times to connect and added the CEO of EIA All Weather Alpha Fund I Partners, LLC (“EIA”), Andrew Middlebrooks (“Middlebrooks”) to the email correspondence. **Exhibit 1 SEC-00307-00312 at SEC-00308-310.**

4. On January 27, 2020, I had a call with Shewchuk, Middlebrooks and Sanaullah.

On the call Middlebrooks discussed the EIA All Weather Alpha Fund I Partners, LP (the “Fund”) and explained its trading strategy and that it had robust risk limits that allowed the Fund to quickly move out of positions and stated that for each trade there was a stop in mind before it was executed. On that same day, Sanaullah followed up with an email reiterating that EIA was a “hedge fund management company that is involved in global long/short investing and global macro trading” and stated the Fund’s performance at that point in time was “+489% since inception (January 2017) and +76% in 2019 (through end-November).” Sanaullah also stated that the Fund had “about \$17mm in AUM [Assets Under Management].” **Exhibit 1 at SEC-00307-308.**

5. Sanaullah also attached a November 2019 Fund tear sheet to the email which supported his statements about the Fund. A true and correct copy of the tear sheet is attached as **Exhibit 2 SEC-00001-00002**. I reviewed the November tear sheet that represented, among other things the following:

- a. Middlebrooks, Charles Chen (“Chen”), and Sanaullah were fund managers (*id. at SEC-00001*);
- b. That the Fund’s auditor was Deloitte (*id.*);
- c. The Fund was started in Q1 of 2017 and
  - i. that its performance “since inception” was “+489.03%,”
  - ii. the “Firm AUM [Assets Under Management] 17 million,”
  - iii. that “Winning Months (%) 82.85%,”
  - iv. that the “3M [three month performance] +15.93%,”

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v. and that the “YTD [year to date performance] +75.70%.” (*id.*)

6. Throughout 2020 and into 2021, in connection with my due diligence I continued to have phone conversations with Middlebrooks and Sanaullah. I had at least seven calls with EIA during this time period. Among other things, to discuss their market impressions and Fund performance. I had a positive impression of both Sanaullah and Middlebrooks. We would discuss macro movements in the market and they would provide insights into trends that I didn’t necessarily look into. All of my conversations with EIA were over the phone or video calls, I never met with Middlebrooks or Sanaullah in person. Overtime, Middlebrooks became the main person at EIA I spoke to on calls with EIA.

7. In April 2020, I was provided by EIA, in connection with my due diligence, the Fund’s Private Placement Memorandum (“PPM”), Limited Partnership Agreement (“LPA”) and subscription agreement. **Exhibit 3 at SEC-00132-174, Exhibit 4 at SEC-00100-00131, Exhibit 5 at 00065-00099.** The PPM represents, among other things, that:

- a. “EIA All Weather Alpha Fund I Partners, LLC (the “Investment Manager”) serves as the Fund’s Investment Manager and is responsible for managing the investment of the Fund’s assets.” **Exhibit 3 at SEC-00136.**
- b. “EIA All Weather Alpha Fund I Partners, LLC is also the Fund’s General Partner...[and] exercises ultimate authority over the Fund and is responsible for engaging service providers for the Fund.” *Id.*
- c. “Andrew Middlebrooks serves as portfolio manager for the Investment Manager.” *Id.*

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- d. “The Fund is a quantitative relative value fund. The Fund’s strategy is based on a [sic] utilizing a proprietary intellectual framework of forecasting, research, portfolio simulation and valuation models to evaluate when to buy or sell stocks using over 100 factors.” ***Id.***
- e. “As compensation for the management services provided to the Fund, the Investment Manager receives a management fee” that ranges from an equivalent of 2% to 1.5% per year of the amount invested, depending on the length of time an investment remains with the Fund. ***Id. at SEC-00139.***

8. In February 2021, Chen emailed me the Fund January 2021 tear sheet. The tear sheet stated, among other things, that the Fund had a 2020 performance of 135.74% and a total return of 1,543.27% with a winning month percentage of 83.67%. **Exhibit 6 at SEC-00007-8.**

9. On April 7, 2021, I contacted EIA by email to inform them that the Gavin Fund would like to invest in the Fund. **Exhibit 7 SEC-000329-332 at 331-332.** Our plan was to invest \$5 million incrementally over time into the Fund starting with \$1.6 million. When I emailed EIA to notify them the Gavin Fund would be investing, I asked to set up a standing monthly call with Middlebrooks and Sanaullah so I could receive timely updates from them on Fund performance and activity. Middlebrooks agreed to this request and added Chen and Brian Yuen (“Yuen”), an EIA employee, to the email thread and the monthly calls.

10. On May 6, 2021, Matthew Bacchiochi, a principal of GMG, signed on to the LPA and subscription agreement on behalf of the Gavin Fund and Middlebrooks countersigned on behalf of EIA. **Exhibit 8; Exhibit 9 at SEC-00049.**

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11. On May 7, 2021, the Gavin Fund made its initial investment of \$1.6 million into the Fund by a wire transfer and received confirmation the wire was received by email from Chen. **Exhibit 10 at SEC-000338-339.**

12. On June 4, 2021, the Gavin Fund made an additional investment of \$350,000 into the Fund by a wire transfer from the Gavin Fund’s financial institution’s account to EIA’s bank account x7260 at Signature Bank (“EIA Bank Account”) and received confirmation the wire was received by email from Chen. **Exhibit 11 at SEC-000346-348.**

13. On June 21, 2021, Chen sent me and Shewchuk the May statement for the Gavin Fund pulled from the Morningstar investor portal. The investor portal provides investors with monthly statements that state the “NAV” (Net Asset Value) of their respective holdings. The statements typically were made available two to three weeks after the close of the month. The Gavin Fund May statement stated that the Gavin Fund’s holdings were valued on May 31, 2021 at \$1,832,320 and had a total return of 14.52% since May 6, 2021. **Exhibit 12 SEC-00025-26 at SEC-00026.** Later that month, I was given access to the Fund’s Morningstar investor portal. I checked the portal monthly on behalf of the Gavin Fund and reviewed the statements each month.

14. In July 2021, I requested audited financial results from inception monthly. In response Chen emailed me the June 2021 Fund tear sheet. The tear sheet stated, among other things, that the Fund had a year-to-date performance of 71.39% and a total return of 2,228.97% with a winning month percentage of 85.19%. **Exhibit 13 at SEC-00009-10.**

15. In July 2021, I reviewed the Gavin Fund June statement on the Morningstar investor portal. It stated that as of June 30, 2021, the Gavin Fund’s holdings were valued at

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\$2,267,649 and had a total return of 19%. **Exhibit 14 SEC-00027-28 at SEC-00028.** Based on the positive returns reflected in the statement, the Gavin Fund made an additional investment of \$750,000 on July 30, 2021 from the Gavin Fund's financial institution's account to the EIA Bank Account. This brought the Gavin Fund's investment total to \$2.7 million.

16. In August 2021, I reviewed the Gavin Fund July statement on the Morningstar investor portal. It stated that as of July 30, 2021, the Gavin Fund's holdings were valued at \$2,171,954 and had a total return of 13.98%. **Exhibit 15 SEC-00029-30 at SEC-00030.**

17. In September 2021, I reviewed the Gavin Fund August statement on the Morningstar investor portal. It stated that as of August 31, 2021, the Gavin Fund's holdings were valued at \$2,960,232 and had a total return of 15.47%. **Exhibit 16 SEC-00031-32 at SEC-00032.**

18. In October 2021, I reviewed the Gavin Fund September statement on the Morningstar investor portal. It stated that as of September 30, 2021, the Gavin Fund's holdings were valued at \$2,984,506 and had a total return of 16.42%. **Exhibit 17 SEC-00033-34 at SEC-00034.**

19. In November 2021, I reviewed the Gavin Fund October statement on the Morningstar investor portal. It stated that as of October 31, 2021, the Gavin Fund's holdings were valued at \$3,141,491 and had a total return of 22.54%. **Exhibit 18 SEC-00035-36 at SEC-00036.**

20. On November 4, 2021, Shewchuk sent Middlebrooks, Yuen and Chen an email asking for more detail on the trades made by the Fund, specifically a P&L statement and detail on every trade made in the prior six months. I was cc'd on the email thread. On November 9,

2021, on that same email thread, Shewchuk stated “we must be able to see that the trades are real and that there is not fraudulent behavior going on, especially when our allocation becomes larger.” **Exhibit 19 at SEC-00355-00360 at SEC-00356.** On November 10, 2021, Chen responded “[o]ur initial thought was that in addition to Morningstar having access to the broker statements as the administrative agent and having a financial audit being completed for this year that would have been sufficient paper trail to show the trades are real.” **Exhibit 19 at SEC-00356.**

21. In December 2021, I reviewed the Gavin Fund November statement on the Morningstar investor portal. It stated that as of November 30, 2021, the Gavin Fund’s holdings were valued at \$3,175,419 and had a total return of 23.86%. **Exhibit 20 SEC-00037-39 at SEC-00039.**

22. In December 2021, I was provided with the Fund’s Q4 2021 Investor Presentation. It represented the Fund had a trading record beginning in Q1 2017 and stated, among other things, that the fund had a cumulative return of +2,159%, and a winning month percentage of 83%. **Exhibit 21 SEC-00260-278 at SEC-000261.**

23. In January 2022, I reviewed the Gavin Fund December statement on the Morningstar investor portal. It stated that as of December 31, 2021, the Gavin Fund’s holdings were valued at \$3,322,441 and had a total return of 29.60%. **Exhibit 22 SEC-00040-42 at SEC-00042.**

24. In late January 2022, Chen sent me the 2020 fiscal year end audited financial statements. A true and correct copy of the audited financial statements I was provided are

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attached here as **Exhibit 23 SEC-00050-64**. The firm that performed the audit, as stated in the document, was Spicer Jeffries.

25. In February 2022, I reviewed the Gavin Fund January statement on the Morningstar investor portal. It stated that as of January 31, 2021, the Gavin Fund's holdings were valued at \$3,417,795 and had a total return of 30.01%. **Exhibit 24 SEC-00043-45 at SEC-00045**.

26. In March 2022, I reviewed the Gavin Fund February statement on the Morningstar investor portal. It stated that as of February 28, 2022, the Gavin Fund's holdings were valued at \$3,529,557 and had a total return of 34.33%. **Exhibit 25 SEC-00046-48 at SEC-00048**.

27. In late March 2022, I spoke on the phone with Middlebrooks, Yuen and Chen. Middlebrooks stated on that call that the AUM of the Fund was \$130 million.

28. Based on my review of the Gavin Fund monthly NAV statements on the Morningstar investor portal, the Q4 2021 Investor Presentation, the stated positive performance of the fund, the 2020 fiscal year end audited financial statements, and Middlebrooks's representation that the AUM of the Fund was \$130 million, the Gavin Fund made an additional investment of \$1 million on March 31, 2022, for a total investment in the Fund of \$3.7 million.

29. On April 22, 2022, I emailed a full redemption notice to Middlebrooks, Chen and Yuen for a full distribution of the Gavin Fund's holdings. **Exhibit 26 at SEC-00377**. I received no response to my request.

30. As of today, the Gavin Fund's March 2022 statement has not been made available on the Morningstar investment portal.

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31. As of today, the Gavin Fund has not received any repayment of its investment in the Fund, nor has it received any payment of the profits that EIA and Middlebrooks represented Gavin Fund's investment in the Fund had earned.

32. As described above, the representations made to me by Middlebrooks and the Fund led me to believe that the fund had excellent returns, a good track record, and a well-known, legitimate auditor. The representations about the Fund's returns, track record, and auditor, and the Gavin Fund's returns in the Fund, were significant to my investment decision. If I had been told that these representations were inaccurate, I would not have invested in the Fund or not continued to invest in the Fund.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 12. 2022.

Andrew Kingston  
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